

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

RHONDA TORRENCE,

Plaintiff,

vs.

**JO ANNE B. BARNHART,
Commissioner of Social Security,**

Defendant.

Case No. 4:05CV599 DJS (LMB)

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

This is an action under 42 U.S.C. § 405(g) for judicial review of defendant's final decision denying plaintiff Rhonda Torrence's application for Supplemental Security Income benefits under Title XVI of the Social Security Act. The cause was referred to the undersigned United States Magistrate Judge for a Report and Recommendation pursuant to 28 U.S.C. § 636 (b). Currently pending is defendant's Motion to Reverse and Remand (Document Number 15). Plaintiff has filed a Response. (Doc. No. 16).

Defendant requests in her Motion to Reverse and Remand that the court remand the cause to the Appeals Council of the Social Security Administration, who in turn will remand the cause to an Administrative Law Judge (ALJ). The ALJ will be directed to recontact plaintiff's treating sources and request updated records, including clinical findings as well as a statement regarding plaintiff's functional limitations. In addition, defendant states that the ALJ will be directed to give plaintiff the opportunity for a new hearing during which the ALJ will receive testimony from a vocational expert regarding the existence of jobs plaintiff could perform given her exertional and non-exertional limitations. For these reasons, defendant requests that the court enter a judgment

reversing the decision of the ALJ and remanding the matter back to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g).

Plaintiff, in her response (Doc. No. 16), states that she has no objection to the Motion to Reverse and Remand.

Sentence four of 42 U.S.C. § 405(g) provides that “[t]he court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing.”

The undersigned believes that it is appropriate to remand this case in order to permit the Commissioner to take further action as requested in defendant’s Motion to Reverse and Remand.


Accordingly,

IT IS HEREBY RECOMMENDED that Defendant’s Motion to Reverse and Remand (Document No. 15) be **granted**.

IT IS FURTHER RECOMMENDED that this cause be **reversed** and **remanded** to the Commissioner for further proceedings pursuant to sentence four of 42 U.S.C. § 405 (g) for the reasons set forth in this Report and Recommendation and that the court not retain jurisdiction.

The parties are advised that they have eleven (11) days in which to file written objections to this Report and Recommendation pursuant to 28 U.S.C. § 636 (b) (1), unless an extension of time for good cause is obtained, and that failure to file timely objections may result in a waiver of the right to appeal questions of fact. Thompson v. Nix, 897 F.2d 356 (8th Cir. 1990).

Dated this 30th day of August, 2005.

A handwritten signature in cursive script, reading "Lewis M. Blanton", written in black ink.

LEWIS M. BLANTON
UNITED STATES MAGISTRATE JUDGE